UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2001/NGO/40
18 January 2001

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 5 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement* submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

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* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.01-10424 (E)

The International Indian Treaty Council considers it very important to draw the attention of the Commission on Human Rights to what has been happening in Guatemala, a country in which we have been following advances and setbacks in the recognition of the rights of the Mayan people, in particular fulfilment of their right to self-determination.

Guatemala has a population of two and a half million, 70 per cent of whom are ethnic Mayans. The Mayan people have their own legal, political, economic, educational and health systems; they have, besides, their own philosophy, governmental structure, authorities, territory, natural resources, distinctive religious practices, identity and culture, a legacy from the Mayas who contributed much to science and technology worldwide with, for example, the invention and use of the symbol 0 (zero).

For many centuries the Mayan people have been subjugated and suppressed by a minority of the population, which instituted for the purpose a State and legal system allowing racism, discrimination and exclusion to be practised systematically against the indigenous peoples; although not one article in the country's Constitution speaks of discrimination, discrimination is a feature of everyday life.

The result of this legal, judicial and constitutional situation has been widespread abuse of the rights of the Mayan people taking the form, for example, of the reduction of Mayan communities to abject poverty, the usurpation, plundering and theft of their lands, territory and resources; jobs that reduce them to servitude in exchange for starvation wages; genocide, though mankind will not speak out about it; subjection to a foreign educational system and language; the systematic destruction of Mayan thought, philosophy and practice; permanent, systematic exclusion from major decision-making within the country; the use of Mayan culture as a tradable commodity; mistreatment and humiliation of Mayans in the various administrative institutions of the State; and other, constantly recurring abuses.

Accordingly, many Mayans were active in various circumstances and organizations during the 36 years of armed internal conflict in Guatemala, their aim being to change the historic, structural situation that was keeping the indigenous peoples in submission and slavery.

As part of the peace negotiations in Guatemala, and as a result of dialogue between the Government, the army and the Guatemalan National Revolutionary Unity Movement (URNG), the Agreement on the Identity and Rights of Indigenous Peoples of 31 March 1995 acknowledged for the first time in the country's history that discrimination and exclusion had been practised systematically against the Mayan people, and laid down guidelines and mechanisms as a first step in the long process of doing away with discrimination by society and the State.

Now, five years after the Agreement on the Identity and Rights of Indigenous Peoples was signed, it is demonstrable that the initiative and will of Governments past and present have not inclined them towards doing away with racism and discrimination; during the lifetime of President Portillo's present Government the dangerous practice has arisen of pursuing two lines, one aimed at international public opinion and the other, the practical one of ignoring any Mayan proposal that seeks to challenge the political and legal status quo.

It cannot be denied that there are some Mayas in the current cabinet, but their political effect has been neutralized as they have been swept along by the Government's generally racist policy. Their inclusion in the cabinet seems to be part of a move to "countrify" State policy, i.e. justify it by making allowance for the natives, whereas in practice Guatemala's public policy, law, Constitution and racist practices remain unaltered.

Including a few Mayas as isolated cases also does nothing to solve the problem of State discrimination. What is needed is for the Government to take account of the Mayan people as such, and respect their decisions.

There is a concrete example of this racism and discrimination: the national Congress has on its agenda a reform of the Elections and Political Parties Act which could provide an opportunity for extensive change and openings for participation by indigenous peoples. Faced, however, with a Mayan proposal to recognize the Mayas' own political system and allow Mayan congressmen to be elected according to Mayan precepts and practices, which would allow some pluralism into Guatemalan politics, the ideological line being taken throughout the Government is that nothing to do with the Mayas or indigenous peoples will be accepted.

A referendum on reforms to the Constitution was held in May 1999 but the Government (the same as today's) and ultra-conservative groups created a climate of terror and fear at the possibility that the reforms, which would have improved some aspects of Mayan people's lives, might be approved. The Government may now plead that this is why it does not want to return to the topic of indigenous peoples; as it has a majority in Congress, however, it could make the necessary judicial and legal changes if it really wanted to.

The International Indian Treaty Council sets enormous store by the fact that in December 2000 the Commission monitoring the peace process in Guatemala set revised deadlines for compliance with some aspects of the peace accords, the Agreement on the Identity and Rights of Indigenous Peoples among them. It is nonetheless concerned that, although there are many Mayan and indigenous organizations in Guatemala, neither the Government nor URNG has called on any of them to discuss forthcoming developments as they relate to the lives of the Mayan people. This goes to show once again that it is still Government policy to leave the majority of the population out of the reckoning.

The Mayan leadership clearly understands that the country needs no more internal wars to bring about the judicial, political and constitutional changes that are required to acknowledge the existence of, and secure respect for, the Mayan people and their inherent rights. The peace process has opened an avenue of permanent dialogue; if, however, the authorities and the present Government do not concentrate on beginning a serious, mature rapprochement with the Mayan people's authorities and representatives, the future of the country may be at risk if it is only political group and party interests that continue to prevail as at present.

The International Indian Treaty Council supports efforts by Mayan people's organizations to bring discrimination, racism and political, economic, social, cultural, judicial, educational, religious and other forms of exclusion to an end one day.

It requests the United Nations, and in particular the Commission on Human Rights, to urge the Guatemalan Government to act in order to:

1. Immediately amend and reform laws that impede fair and equal participation by the Mayan and other peoples;

2. Allocate State financial resources to the indigenous peoples so that they can put into effect their political, economic, educational, cultural, religious and other plans. Such resources should be put in the hands of unimpeachably Mayan institutions so that they can be managed and administered autonomously;

3. Grant legal and constitutional recognition to the existence of the Mayan people, and set up and encourage mechanisms whereby Mayan institutions can operate without interference from governmental policies;

4. Support efforts by Mayan representatives and organizations to bring into being a nationwide Mayan body to analyse, discuss and define macro policies enabling the Mayan people to get on with their lives;

5. Continue to work seriously to give effect to the Agreement on the Identity and Rights of Indigenous Peoples as part of the peace accords, entering into dialogue with the Mayan people's representatives with a view to establishing a schedule of activities and putting the Agreement into practice;

6. Establish at the earliest opportunity a national commission for dialogue between the Government and representatives and authorities of the Mayan people, which should define priorities and mechanisms for resolving the most pressing problems that the Mayan people face on the basis of self-determination and equal participation.

The Council believes that the international community, and the United Nations especially, can continue to oversee and support efforts by the Government and the Mayan people in Guatemala to make of the State a representative entity that defends the interests and needs of all the different ethnic groups that live together within the country: the Maya, Garífuna, Xinka and Ladino peoples.

The Council urges the Guatemalan Government to hold fast to its foreign policy of unconditional support for the struggle by indigenous peoples, as it did during the discussions at the United Nations on the draft declaration on the rights of indigenous peoples.

Domestically too, however, it must make a break from the political monopoly and imposed demands of a small group in power. And in order to do that, it must recognize and give effect to the rights of our Mayan people.

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